IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 11209 of 2000

For Approval and Signature:

Hon'ble MR.JUSTICE H.K.RATHOD

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1. Whether Reporters of Local Papers may be allowed to see the judgements? : NO

2. To be referred to the Reporter or not? : NO

3. Whether Their Lordships wish to see the fair copy of the judgement? : NO

4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder? : NO

5. Whether it is to be circulated to the Civil Judge? : NO

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PATEL PARSHOTTAM PUNJABHAI

Versus

DISTRICT DEVELOPMENT OFFICER

Appearance:

1. Special Civil Application No. 11209 of 2000

MR JV JAPEE for Petitioner No. 1-3

MR MANISH J PATEL for Respondent No. 1

MR CHETAN K PANDYA for Respondent No. 2

RULE SERVED for Respondent No. 3-5

Ms. Pandit, AGP for Respondent No. 6

CORAM : MR.JUSTICE H.K.RATHOD

Date of decision: 28/08/2001

ORAL JUDGEMENT

Heard learned advocate Mr. Japee for the

petitioners, Mr. M.J. Patel for respondent No.1, Mr. Chetan Pandya for respondent No.2 and Ms. Pandit, learned AGP for respondent No. 6. Though notice of rule has been served upon respondents No. 3, 4 and 5, no appearance has been filed on their behalf. Brief facts of the present petition are as under:

The petitioners are the owners of the land bearing survey No. 51/2/6 Part in Himatnagar Town. The petitioners had applied for NA Permission for construction of residential houses upon the land in question. On 31st July, 1986, the District Development Officer had passed an order granting NA Permission in respect of the land in question permitting the petitioners to construct the residential houses. Respondent No.2 had preferred revision application under section 211 of the Bombay Land Revenue Code before the Deputy Secretary (Appeals) Revenue Department. On 31st December, 1993, the revisional authority has passed the order in the said revision application but the petitioners were not intimated about the said order and the petitioners were not aware about the said order. According to the petitioners, they came to know about the said order on 14th April, 2000. According to the petitioners, when they came to know about the said order when they approached the Talati for making payment of the land revenue. The revisional authority has not communicated the order to the petitioners and the petitioners had not appeared before the revisional authority and no notice has been served upon the petitioners by the revisional authority in the said proceedings and, therefore, the grievance of the petitioners is that the said order dated 31st December, 1993 has been passed by the revisional authority without hearing the petitioners though orders of granting NA Permission were passed by the District Development Officer dated 31st July, 1986 in favour of the petitioners.

I have perused the orders wherein at page 23 annexure "B", name of Purshottambhai Punjabhai Patel and others has been mentioned but in the order, no one has appeared on behalf of said Purshottambhai Punjabhai Patel who was respondent NO.2 in the said revision application before the revisional authority and is petitioner No.1 in the present petition. Patel Jentibhai punjabhai and Patel Ramanbhai Punjabhai are the petitioners NO.2 and 3 respectively in this petition. The contention that no notices were served upon the petitioners by the revisional authority in the revision proceedings is not disputed by the respondent authorities as well as the

other respondents. Upon perusal of the whole order passed by the revisional authority, it does not appear from the text of the order that the notices in the said proceedings were issued and served upon the petitioners and inspite of issuance and service of the notices upon the petitioners herein, the petitioners have not appeared before the revisional authority. No appearance has been filed on behalf of the respondent No.2 in the revision application before the revisional authority. Therefore, it is clear that the order has been passed by the without hearing the petitioners. Thus, the revisional authority has passed the order against the principles of natural justice.

In view of the above facts, according to my view, the impugned order dated 31.12.1993 passed by the revisional authority in the revision application is required to be quashed and set aside on that ground alone and without observing anything on the merits of the matter while directing the revisional authority to decide the said revision application a fresh in accordance with law and merits.

Therefore, this petition is allowed. The impugned order dated 31st December, 1993 passed by the revisional authority is hereby quashed and set aside and it is directed to the respondent No. 6 to decide and dispose of the revision application no. 8 of 1989 in accordance with law after giving reasonable opportunity to the respective parties and after serving notices to each of the respondents, within three months from the date of receipt of the copy of this order. The parties are directed to extend their positive cooperation for expeditious disposal of the said revision application. Meanwhile, it is directed to the parties to maintain status quo till the decision is given by the revisional authority. Rule is made absolute in terms indicated hereinabove with no order as to costs.

28.8.2001. (H.K. Rathod,J.)

Vyas